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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/385,489 08/30/99 SULLIVAN

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EXAMINER

TM02/0605

BELL BOYD & LLOYD
P O BOX 1135
CHICAGO IL 60690-1135

LASTRA, D	
ART UNIT	PAPER NUMBER

2162
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/385,489

Applicant(s)

SULLIVAN ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 3. 20) ☐ Other:

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1. Claims 1-44 have been examined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-6, 8-17, 21-27, 29-33, 35-38 and 40-44 are rejected under 35 U.S.C. 102(e) as being unpatentable by Fajkowski (U.S. 5,905,246).

As per claim 1, Fajkowski teaches:

“capturing terms of the promotion” (see column 3, lines 50-67);

“storing the terms of the promotion in a database” (see column 6, lines 44-59);

“collecting product POS data from at least one in-store POS system of the retailer”
(see column 4, lines 24-29);

“filtering the product POS data to obtain promoted product POS data” (see column 4, lines 29-32);

“processing the promoted product POS data in accordance with the terms of the promotion to determine an amount of money the manufacturer owes to the retailer for the promotion” (see column 4, lines 64-67 – column 5, lines 1-9); and

“facilitating the manufacturer's payment of the amount of money owed to the retailer for the promotion” (see column 23, lines 31-43).

As per claim 2, Fajkowski teaches "which further includes the step of enabling the retailer and the manufacturer to access the terms of the promotion stored in the database to verify the terms of the promotion" (see column 5, lines 20-38).

As per claim 3, Fajkowski teaches "which further includes the step of enabling the retailer to change the terms of the promotion prior to the start of the promotion, capturing the changed terms of the promotion and storing the changed terms of the promotion in the database" (see column 5, lines 39-52).

As per claim 4, Fajkowski teaches "which further includes the step of enabling the retailer and the manufacturer to access the terms of the promotion stored in the database to verify the terms of the promotion and to determine if the retailer changed the terms of the promotion" (see column 5, lines 39-65).

As per claim 5, Fajkowski teaches "which further includes the step of enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of promoted products sold during the promotion" (see column 5, lines 30-38).

As per claim 6, Fajkowski teaches "which further includes the step of enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the promotion" (see column 5, lines 1-10).

As per claim 8, Fajkowski teaches "wherein the step of storing the terms of the promotion includes storing the terms of the promotion in at least one predefined table" (see column 10, lines 31-48).

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As per claim 9, Fajkowski teaches "wherein the step of storing the terms of the promotion includes creating a UPC list for the promoted products" (see column 10, lines 9-30).

As per claim 10, Fajkowski teach "wherein the step of storing the terms of the promotion includes generating a complete UPC code list of all of the UPC codes offered by the manufacturer" (see column 23, lines 49-64).

As per claim 11, Fajkowski teaches "wherein the step of storing the terms of the promotion includes selecting additional products being promoted from the complete UPC code list" (see column 23, lines 49-64).

As per claim 12, Fajkowski teaches "wherein the retailer has a plurality of stores with in-store POS systems and the step of collecting the product POS data includes collecting product POS data from the plurality of stores and consolidating all of the collected product POS data" (see column 5, lines 14-38).

As per claim 13, Fajkowski teaches "wherein the step of filtering the product POS data includes the step of generating a table of UPC codes for products active in the promotion" (see columns 11-13).

As per claim 14, Fajkowski teaches "wherein the step of filtering the product POS data includes the step of comparing the product POS data to the table of UPC codes to obtain the promoted product POS data" (see columns 15-17).

As per claim 15, Fajkowski teaches "which further includes the step of verifying that the promoted product POS data is within acceptable tolerances" (see column 16, lines 51-67) .

As per claim 16, Fajkowski teaches, "which includes the step of comparing the promoted product POS data for a period after the beginning of the promotion with product POS data for the same products for a period prior to the beginning of the promotion" (see column 23, lines 20-48).

As per claim 17, Fajkowski teaches "wherein processing the promoted product POS data in accordance with the terms of the promotion includes creating at least one settlement table which includes the number of promoted products sold by the retailer during the promotion, discounts given to consumers on the promoted products during the promotion, and the amount of money the manufacturer owes to the retailer for the promotion" (see column 23, lines 20-48).

As per claim 21, Fajkowski teaches "which further includes the step of aggregating all of the promoted product POS data for a plurality of promotions of products from the manufacturer" (see column 5, lines 14-37).

As per claim 22, Fajkowski teaches "which further includes the step of processing the aggregated promoted product POS data for a plurality of retailers for the manufacturer" (see column 5, lines 14-37).

Claim 23 is written in means format and contains the same limitation as claim 1, therefore the same rejection is applied.

As per claim 24, Fajkowski teaches "wherein the retailer has a plurality of stores with in-store POS systems and the collection means collects product POS data from the plurality of retailer stores and consolidates the product POS data into a consolidated file for transfer to the filtering means" (see column 5, lines 14-38).

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As per claim 25, Fajkowski teaches "wherein the filtering means includes means for comparing the product POS data to a list of UPCs for the promotion to obtain the promoted product POS data" (see column 11, lines 10-38 and columns 15-17).

As per claim 26, Fajkowski teaches "where the determining means includes means for verifying that the promoted product POS data is within acceptable tolerances for the promoted product" (see column 16, lines 51-67 – column 17, lines 1-21).

As per claim 27, Fajkowski teaches "which further includes means for reporting the promoted product POS data to the retailer and the manufacturer" (see column 5, lines 14-38).

As per claim 29, Fajkowski teaches "wherein the determining means aggregates the promoted product POS data for a plurality of products for the manufacturer" (see column 5, lines 30-38).

As per claim 30, Fajkowski teaches:

"storing the terms of the promotions in a first database" (see column 23, lines 49-52);

"copying the terms of the promotions to a second database" (see column 23, lines 54-56);

"providing the retailer and manufacturer access to the first database to verify the terms of the promotions (see column 23, lines 49-54);

"collecting the product POS data during the promotions from at least one in-store POS system of the retailer" (see column 4, lines 15-63);

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"filtering the product POS data to obtain promoted product POS data (see column 4, lines 15-63);

"storing the promoted product POS data in the first database (see column 5, lines 14-16);

"copying the promoted product POS data to the second database (see column 5, lines 20-22);

"determining the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the promotion" (see column 5, lines 1-13);

"storing the amount of money the manufacturer owes the retailer on the first database" (see column 23, lines 20-36);

"copying the amount of money the manufacturer owes the retailer to the second database" (see column 23, lines 20-36);

"providing the retailer and manufacturer access to the first database during the product promotion to determine the amount of money the manufacturer owes the retailer for the promotion" (see column 23, lines 31-36); and

"facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer" (see column 23, lines 31-36).

As per claim 31, Fajkowski teaches "which further includes the step of aggregating all of the promoted product POS data for a plurality of promotions of products from the manufacturer" (see column 24, lines 65-67 – column 25, lines 1-5).

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As per claim 32, Fajkowski teaches “which further includes the step of processing the aggregated promoted product POS data for a plurality of retailers for the manufacturer” (see column 24, lines 65-67 – column 25, lines 1-21).

As per claim 33, Fajkowski teaches:

“capturing the terms of the promotions” (see column 5, lines 14-38);

“storing the terms of the promotions in a database” (see column 5, lines 20-30);

and

“enabling the retailer and the manufacturer to access the database to determine the stored terms of the promotions” (see column 5, lines 14-38).

As per claim 35, Fajkowski teaches “which further includes the step of enabling the retailer to change the terms of the promotions prior to the start of the promotions, capturing the changed terms of the promotions and storing the changed terms of the promotions in the database” (see column 5, lines 39-65).

As per claim 36, Fajkowski teaches “which further includes the step of enabling the retailer and the manufacturer to access the terms of the promotions stored in the database to verify the terms of the promotions and to determine if the retailer changed the terms of the promotions” (see column 23, lines 49-64).

As per claim 37, Fajkowski teaches:

“an independent system having a processor and database adapted to capture and store the terms of the promotions (see columns 8-9), to collect promoted product POS data for the promotions (see column 4), to process the collected promoted product POS data in accordance with the terms of the promotions to determine an amount of money

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the manufacturer owes to the retailer for the promotions (see columns 4-5), and to facilitate the manufacturer's payment of the amount of money determined to be owed to the retailer for the promotions" (see column 23, lines 20-64);

"a retailer system in communication with the independent system, having a processor adapted to collect promoted product POS data from a plurality of retailer stores, to consolidate the promoted product POS data, and to transfer the promoted product POS data for the promotions to the independent system" (see column 23, lines 20-64); and

"a manufacturer system in communication with the independent system" (see column 23, lines 49-52).

As per claim 38, Fajkowski teaches "wherein the independent system is adapted provide the retailer system and the manufacturer system access to the independent system database to verify the terms of the promotions, to determine the number of promoted products sold during the promotions and to determine the amount of money the manufacturer owes to the retailer for the promotions" (see column 23, lines 20-49).

As per claim 40, Fajkowski teaches "wherein the independent system is adapted to generate a table of UPC codes that are active in the promotions and to transfer said table of UPC codes to the retailers system" (see column 23, lines 49-64).

As per claim 41, Fajkowski teaches "wherein the retailer system is adapted to collect product POS data for all of the products it sells and to use the table of UPC codes to filter the product POS data to obtain promoted product POS data" (see column 15 and column 11, lines 9-38).

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Claim 42, contains the same limitation as claim 26, therefore the same rejection is applied.

Claim 43, contains the same limitation as claim 29, therefore the same rejection is applied.

Claim 44, contains the same limitation as claim 31, therefore the same rejection is applied.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 18-20, 28, 34 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (U.S. 5,905,246).

As per claim 7, Fajkowski does not explicitly teach "wherein the retailer and manufacturer use the internet to access the stored terms of the promotion, the number of promoted products sold during the promotion and the amount of money the manufacturer owes to the retailer". However, Fajkowski teaches a clearinghouse that stores terms of the promotion, the number of promoted products sold during the promotion and the amount of money the manufacturer owes the retailer. The retailer and manufacturers could transfer and receive data from a clearinghouse via a modem (see column 23, lines 20-67 – column 24, lines 1-10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to

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know that if Fajkowski is transferring and receiving data via a modem, it would use the Internet to do the same. The Internet, would be an obvious option as it is well known and uses a modem to receive and transfer data, through telephone lines.

As per claim 18, Fajkowski does not explicitly teach "wherein the step of facilitating the manufacturer's payment to the retailer includes paying the retailer using an electronic funds transfer". However, Fajkowski teaches that since redeemed coupon data is transmitted by modem to clearinghouse, information concerning amounts owed by manufacturers to retailers may be distributed to the parties with a minimum of delay and allow prompt repayment by the manufacturers (see column 23, lines 32-36). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that paying the retailers by electronic fund transfer would be an obvious thing, as it would allow prompt repayment by the manufacturer.

As per claim 19, Fajkowski fail to teach "wherein the step of facilitating the manufacturer's payment to the retailer includes sending an invoice to the manufacturer for payment, collecting the money the manufacturer owes to the retailer and paying the retailer the amount of money owed to the retailer". However, Official notice is taken that it is old and well known in the business art for companies to contract collection agencies to take care of submitting invoices and collecting the payments. It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention was made, to implement this feature to Fajkowski.

As per claim 20, Fajkowski fail to teach, "wherein the step of facilitating the manufacturer's payment to the retailer includes sending notices to the retailer and the

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manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer". However, Official notice is taken that it is old and well known in the business art to send bills to outstanding debtors and provide credit to customer to balance accounts. It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention was made, that Fajkowski would easily send bills and credit balances as needed.

Claims 28, 34 and 39, contains the same limitation as claim 7, therefore the same rejection are applied.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Powell teaches a system for displaying, and redeeming electronic discount coupons in a store.
- West et al teach a cost-effective, in-store coupon dispensing system that increases coupon redemption rates and product turns.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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308-9051 for regular communications and 703-308-5357 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

D.L.

Daniel Lastra
June 4, 2001

Steve Gravini for ES

**STEPHEN GRAVINI
PRIMARY EXAMINER**